

*Plaintiff*  
*III*

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
PHILADELPHIA DISTRICT OFFICE

- - - - -X  
FRANCISCO X. FERNANDEZ, : EEOC Hearing No.  
Complainant, : 170-A3-8006X  
vs. :  
JOHN ASHCROFT, ATTORNEY : Agency Case No.  
GENERAL, DEPARTMENT OF : D-02-3654  
JUSTICE, :  
Agency :  
- - - - -X

MONDAY, JUNE 9, 2003  
PHILADELPHIA, PENNSYLVANIA

- - -

Equal Employment Opportunity  
Commission Hearing, taken at the Department of  
Drug Enforcement Administration, Philadelphia  
Field Division, Federal Building, 6th & Arch  
Streets, 10th Floor, commencing at 1:15 p.m.,  
before Denise Weller, a Registered Professional  
Reporter and Notary Public in and for the  
Commonwealth of Pennsylvania.

- - -

A P P E A R A N C E S :

UNITED STATES DEPARTMENT OF JUSTICE  
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EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
PHILADELPHIA DISTRICT OFFICE  
BY: DONNA NUTTER RODWELL  
Administrative Judge  
The Bourse  
21 South 5th Street  
Suite 400  
Philadelphia, PA 19106-2515  
(215) 440-2808

- - -

## I N D E X

1		
2		
3	WITNESSES	PAGE
4	-----	-----
5	DAVID ZON	19
6	MARVIN MAILEY	28
7	FRANCISCO FERNANDEZ	67, 173
8	JOHN BROWN	93
9	JOHN MCCARTY	190
10	WALTER MORRISON	264
11		- - -
12	EXHIBITS_(Admitted)	
13	-----	
14	Agency 1 through 13	
15	Agency 16	
16		
17	Complainant C1-A through C-3	
18	Complainant 7	
19	Complainant 13 through C-15	
20	Complaintant 18 through C-20	
21	Complainant 22 through 24	
22	Complainant 31 and C-32	
23	Complainant 36	
24	Complainant 40	

1 hearing today. And I approved you as a  
2 witness in this case.

3 Do you have any objection, sir, to  
4 taking an oath?

5 MR. MCCARTY: No.

6 JUDGE RODWELL: Raise your right  
7 hand, please.

8 - - -

9 JOHN MCCARTY, after having been  
10 first duly sworn, was examined and testified  
11 as follows:

12 - - -

13 JUDGE RODWELL: Thank you, sir.  
14 State your name for the record and your  
15 current position with the Agency.

16 THE WITNESS: My name is John R.  
17 McCarty; M-C-C-A-R-T-Y. My title is special  
18 agent. And currently I am assigned as the  
19 special agent in charge of the drug  
20 enforcement administration office of  
21 training located in Quantico, Virginia.

22 JUDGE RODWELL: And how long have  
23 you been in that position?

24 THE WITNESS: Since June of 2002.

1 career board meet?

2 A. Approximately every four to six  
3 weeks.

4 Q. And can you give me an estimate as  
5 to how many items the career board went over  
6 during each meeting?

7 A. The career board was broken down.  
8 The agenda, which was compiled by me at the time,  
9 was broken down into four categories. One that  
10 handled administrative items, people returning  
11 early from tours overseas, hardships, things like  
12 that to civilian promotions such as chems getting  
13 the next grade level to grade 15 promotions and  
14 grade promotions.

15 It was not uncommon to have a career  
16 board that had between 30 and 100 items to be  
17 determined on a given day.

18 Q. Okay. And as executive secretary,  
19 what did you do in preparation for a career board  
20 meeting?

21 A. We would go through the actual  
22 vacancy announcements that had been announced by  
23 the Agency, collate them into those four  
24 categories and make sure that the best qualified

1 lists which were compiled by the office of  
2 personnel were given to the career board and then  
3 sent out to the agents in charge or the office  
4 head who would be responsible for selecting  
5 someone to fill those positions.

6 So what we would do is get the best  
7 qualified list from--for the agent's assignment  
8 unit and attach biographical data sheets which  
9 would give the agent in charge an idea of who the  
10 individuals were rather than just a name on a  
11 list. They would have an idea of how many--what  
12 assignments a person may have, their educational  
13 experience, their time on the job. It would have  
14 their enter on duty date, things of that nature  
15 on it so they can get a better view of the  
16 individuals applying for the particular opening.

17 We would then send this to the agent  
18 in charge or office head. They would commonly  
19 send back a recommendation list, usually made up  
20 of three individuals who they felt had the  
21 knowledge, skills and abilities to fill the  
22 particular vacancy that they had in their office.

23 Q. So you said that it would be an  
24 office head or SAC recommendation as opposed to a

1 A. It's my understanding that, yes,  
2 they are.

3 Q. Why are they now being recorded?

4 A. I have no idea.

5 Q. So we have nothing on the record to  
6 show documentation wise to show what was  
7 discussed? We already went over that, correct?  
8 Nothing in the minutes to show what was actually  
9 discussed with regard to the positions?

10 JUDGE RODWELL: I have a question.  
11 I have a question. No, we don't, sir. And  
12 I am saying that because it's already been  
13 asked and answered.

14 Mr. McCarty, I know you testified  
15 that sometimes the career board--that  
16 career board members don't always accept the  
17 SAC's recommendation. Is that--what is  
18 it, is it more common for them to accept the  
19 SAC recommendation or not?

20 THE WITNESS: Yes, it is more common  
21 for them to accept the SAC recommendation.

22 However, the career board is mandated to  
23 take the Agency's as a whole needs into  
24 consideration. Thus, they may make

1 decisions as to placement of headquarter's  
2 personnel or field personnel into  
3 headquarters.

4 JUDGE RODWELL: Right.

5 THE WITNESS: That helps the career  
6 development and the Agency. The Agency  
7 requires that agents sign a mobility  
8 agreement and they can be reassigned at the  
9 Agency's needs and desire.

10 JUDGE RODWELL: Okay.

11 MR. FERNANDEZ: Just two more  
12 questions real quick, Your Honor.

13 - - -

14 EXAMINATION

15 - - -

16 BY MR. FERNANDEZ:

17 Q. This is the--I am going to show  
18 you what has been marked as Agency--in the ROI.  
19 I apologize for that. In the ROI tab 7E. It's  
20 the --

21 MS. GOLDSTEIN: There is no 7E.

22 MR. FERNANDEZ: F8-E.

23 BY MR. FERNANDEZ:

24 Q. This is the outcome. Would you